

**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

ERNEST J. FRANCESCHI, JR.,

Plaintiff,

vs.

DWIGHT CHORNOMUD, et al.,

Defendants.

Case No. 2:07-cv-00203-LRH-GWF

REPORT AND RECOMMENDATION

This matter is before the Court on the Plaintiff's Motion for an Order Striking the Answers of Defendants DR Entertainment Group, LLC dba Minxx Gentlemen's Club and Lounge and Dwight Chornomud for Failure to Comply with the Court's Order of February 4, 2008; and for Dismissal of Defendants' Counter-claim (#39), filed March 3, 2008. Pursuant to the Court's Order of January 30, 2008 (#37), which allowed Defendants' counsel to withdraw. Defendants and Cross-Claimants, Dwight Chornomud and DR Entertainment Group, LLC had until February 29, 2008 to advise the Court if Defendants will retain new counsel or proceed in proper person. To date, the Defendants have failed to do so. A corporation may appear in federal court only through licensed counsel. *U.S. v. High Country Broad. Co., Inc.*, 3 F.3d 1244, 1245 (9th Cir. 1993). Accordingly, Defendant DR Entertainment Group, LLC is required to be represented by counsel.

RECOMMENDATION

IT IS RECOMMENDED that Defendant's Motion for an Order Striking the Answers of Defendants DR Entertainment Group, LLC dba Minxx Gentlemen's Club and Lounge for Failure to Comply with the Court's Order of February 4, 2008; and for Dismissal of said Defendants' Counter-claim (#39) should be **granted** as to Defendant DR Entertainment Group, LLC dba Minxx Gentlemen's

1 Club and Lounge's and its Answer and Counter-claim be **stricken** and its default entered in this case.
2 Defendant Dwight Chornomud, as an individual, is entitled to defend the claims against him and to
3 pursue his personal claims without counsel. Accordingly, this Report and Recommendation does not
4 apply to Defendant Dwight Chornomud.

5 **IT IS FURTHER RECOMMENDED** that a default judgment be entered in favor of Plaintiff
6 and against Defendant DR Entertainment Group, LLC dba Minxx Gentlemen's Club and Lounge.

7 **NOTICE**

8 Pursuant to Local Rule IB 3-2, any objection to this Finding and Recommendation must be in
9 writing and filed with the Clerk of the Court within ten (10) days. The Supreme Court has held that the
10 courts of appeal may determine that an appeal has been waived due to the failure to file objections
11 within the specified time. *Thomas v. Arn*, 474 U.S. 140, 142 (1985). This circuit has also held that (1)
12 failure to file objections within the specified time and (2) failure to properly address and brief the
13 objectionable issues waives the right to appeal the District Court's order and/or appeal factual issues
14 from the order of the District Court. *Martinez v. Ylst*, 951 F.2d 1153, 1157 (9th Cir. 1991); *Britt v. Simi*
15 *Valley United Sch. Dist.*, 708 F.2d 452, 454 (9th Cir. 1983).

16 DATED this 16th day of April, 2008.

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19 GEORGE FOLEY, JR.
20 United States Magistrate Judge
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